

## DETAILED ACTION

1. This communication is in response to the amendment filed July 7, 2008.

Note: The case is now assigned to Examiner Gregory Johnson.

### ***Status of Claims***

2. Claims 1, 22 and 28 have been amended. Claims 2-21, 23-27 and 29-34 are original. Claims 1-34 are pending.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

4. Claim 30 is objected to because of the following informalities: wherein the computer program includes voice-recognition capabilities operable to the receive the loan request by telephone. Removal of “the” is an appropriate correction.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful **process, machine, manufacture, or composition of matter**, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 22 recites “A computer program” in the preamble and “a code segment” for each limitation within the claim. The Examiner has interpreted the claim as being drawn to software. Software is not one of the four statutory categories mentioned above. Appropriate correction is required.

Claims 23-27 are rejected to because of their dependency on claim 22.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 9-13, 15-16, 22-25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Foss, JR. et al., Pub. No. 2004/0225604 (hereinafter Foss).

As to claim 11, Foss discloses a method and system for short term loan (e.g. actually using overdraft protection funds; Abstract; ¶0003, ¶0033 and ¶0047) processing to be utilized by a lender, the method comprising the steps of:

- (a) establishing a loan account for a customer (¶0046-¶0049);
- (b) providing the customer access to the loan account through an ATM card (¶0030);
- (c) receiving a loan request from the customer through a communications network (¶0047 and ¶0065-0067);

- (d) approving the loan request immediately by utilizing computing equipment such that human involvement is not required to approve the loan request (¶0047);
- (e) depositing a loan amount immediately into the loan account utilizing the computing equipment such that human involvement is not required to deposit the loan amount into the loan account (¶0030 and ¶0066-0067); and
- (f) automatically withdrawing the loan amount and a loan fee from the loan account by utilizing the computing equipment when additional funds are deposited into the loan account (¶0069 and ¶0071).

The limitations of claims of claims 1 and 22 are equivalent to the limitations of claim 11, and are therefore rejected on the same grounds.

As to claims 2-7, 9-10, 12-13, 15-16, 23-25 and 27, Foss discloses the following limitations:

- wherein the loan request is received through a web site (¶0065);
- wherein the loan request is received by electronic mail (¶0065);
- wherein the loan request is received by telephone (¶0065);
- wherein the loan request is received through modes selected from the group consisting of: a web site; electronic mail; a telephone; and combinations thereof (¶0065);

- wherein the loan request is immediately approved by the computing equipment (¶0047);
- wherein the loan amount is automatically withdrawn from the account by the computing equipment (¶0069 and ¶0071);
- wherein the account is a pre-existing account established with the lender (e.g. account was established prior to a loan request; ¶0046-0049);
- wherein the loan amount is deposited into the account such that the deposited loan amount is immediately accessible through an ATM card (¶0066-0067);
- wherein the additional funds correspond to a paycheck deposited on a pay day (e.g. direct deposit; ¶0014);
- wherein the pay day is verified by the computing equipment such that the customer is not required to accurately determine the date of the pay day (¶0014); and
- wherein the additional funds correspond to a deposited paycheck (¶0011 and ¶0014).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 8, 14 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foss, in view of Sinnott, Pub. No. 2004/0010419 (hereinafter Sinnott).

As to claims 8, 14 and 26, Foss does not disclose the following limitations:

- wherein the lender is an unconventional lender; and
- wherein the loan amount is provided by an unconventional lender.

However, Sinnott teaches a method and apparatus for facilitating acquisition of prospective payoff information on an existing loan account where the lender is an unconventional lender (e.g. private lender; ¶0065).

The disclosure by Foss recites that the method and system can be implemented in cooperation or in partnership with a bank or financial institution (¶0018). Foss also discloses that the basic card account type provides the customer with a branded card (i.e. Visa, Master Card, American Express, etc.; ¶0037). And Sinnott teaches that a loan servicer can be a bank, mortgage company, private lender, or company in the business of servicing loan accounts for a plurality of creditors. Therefore, It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include in

the system for providing checkless checking accounts as disclosed by Foss, the variety of loan servicing entities (e.g. businesses extending credit such as a credit account) as taught by Sinnott, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in that art would have recognized that the results of the combination were predictable. See MPEP 2143 (Rev. 6, Sept. 2007).

7. Claims 17-18, 20-21, 28-31 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foss, in view of Kriplani et al., Pat. No. 7,353,203 (hereinafter Kriplani).

As to claims 17 and 28, Foss discloses a method for short term loan (e.g. actually using overdraft protection funds; Abstract; ¶0003, ¶0033 and ¶0047) processing to be utilized by a lender, the method comprising the steps of:

- (b) receiving a loan request from the customer through a communications network (¶0047 and ¶0065-0067);
- (c) approving the loan request immediately by utilizing computing equipment such that human involvement is not required to approve the loan request (¶0065-0067);
- (d) depositing a loan amount immediately into the loan account utilizing the computing equipment such that human involvement is not required to deposit the loan amount into the loan account (¶0065-0067);

- (e) automatically withdrawing the loan amount and a loan fee from the primary account by utilizing the computing equipment when additional funds are deposited into the primary account (¶0069 and ¶0071);
- a connection element operable to connect the system to a communications network (¶0028 and ¶0065);
- an input device operable to receive a loan request through the communications network (¶0028 and ¶0065);
- a processor operable to execute the combination of code segments and access the database to approve the loan request such that human involvement is not required to approve the loan request (e.g. access customer records to validate overdraft protection and amount of credit available; ¶0047 and ¶0065-0067); and
- a transfer device operable to immediately deposit a loan amount into an account, accessible by the customer, and automatically withdraw the loan amount and a loan fee from the account when additional funds are deposited into the account (¶0069 and ¶0071).

Foss does not explicitly disclose the following limitations; however, Kriplani teaches the limitations:

- (a) establishing a loan account for a customer by allowing the customer to provide a voided check corresponding to a primary account (col. 7, lines 3-19); and

- a computer-readable memory operable to store a combination of code segments (col. 6, lines 14-20) and a database of loan accounts (col. 6 line 66 thru col. 7 line 1).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as taught by Kriplani within Foss for the motivation of providing a system that automates funding, and collections between billers and payers (col. 4, lines 3-10).

As to claims 18, 20-21, 29-31 and 33-34, Foss discloses the following limitations:

- wherein the loan request is received through modes selected from the group consisting of: a web site; electronic mail; a telephone; and combinations thereof (¶0065)
- wherein the additional funds correspond to a deposited paycheck (¶0011 and ¶0014);
- wherein the deposited loan amount is immediately accessible by the customer through an ATM card (¶0066-0067);
- wherein the input device includes a web- server operable to receive the loan request through the communications network (¶0065);
- wherein the input device includes voice- recognition capabilities operable to receive the loan request by telephone (¶0065);

- wherein the loan amount is deposited into the account such that the deposited loan amount is immediately accessible through an ATM card (¶0066-0067);
- wherein the additional funds correspond to a deposited paycheck (¶0011 and ¶0014); and
- wherein the account is a pre-existing account established with the lender (e.g. account was established prior to a loan request; ¶0046-0049).

8. Claims 19 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foss and Kriplani as applied to claims 17 and 28 above, and further in view of Sinnott.

As to claims 19 and 32, Foss does not disclose the following limitation:

- wherein the lender is an unconventional lender.

However, Sinnott teaches a method and apparatus for facilitating acquisition of prospective payoff information on an existing loan account where the lender is an unconventional lender (e.g. private lender; ¶0065).

The disclosure by Foss recites that the method and system can be implemented in cooperation or in partnership with a bank or financial institution (¶0018). Foss also discloses that the basic card account type provides the customer with a branded card (i.e. Visa, Master Card, American Express, etc.; ¶0037). And Sinnott teaches that a loan servicer can be a bank, mortgage company, private lender, or company in the business

of servicing loan accounts for a plurality of creditors. Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include in the system for providing checkless checking accounts as disclosed by Foss, the variety of loan servicing entities (e.g. businesses extending credit such as a credit account) as taught by Sinnott, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in that art would have recognized that the results of the combination were predictable. See MPEP 2143 (Rev. 6, Sept. 2007).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY JOHNSON whose telephone number is (571)272-2025. The examiner can normally be reached on Monday - Friday, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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